

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

MICHAEL ASH, SHELLY ASH, IN-LAW
CONSTRUCTION,

Civil No. 12-1721 (JRT/LIB)

Plaintiffs,

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

v.

WERNER CO., OLD LADDER CO.,
MENARD, INC., NEW WERNER
HOLDING CO., INC.,

Defendants,

Daniel Howland, James Lavoie, **LINDELL & LAVOIE LLP**, 431 South
Seventh Street, Suite 2420, Minneapolis, MN 55415, for plaintiffs.

Michael Meyer, Patrick Burgess, **TRIBLER ORPETT & MEYER PC**, 225
West Washington, Suite 1300, Chicago, IL 60606; Robert McCollum, Gregory
Duncan, **MCCOLLUM, CROWLEY, MOSCHEL & MILLER**, 7900
Xerxes Avenue South, Suite 700, Minneapolis, MN 55431, for defendants
Werner Co., Menard, Inc., and New Werner Holding Co., Inc.

Based upon the Report and Recommendation by United States Magistrate Judge Leo I. Brisbois
[Docket No.11], along with all the files and records, and no objections to said Recommendation
having been filed, **IT IS HEREBY ORDERED** that:

1. Plaintiff's claims against Old Ladder Co. are **DISMISSED WITHOUT
PREJUDICE** for failure to prosecute.

DATED: December 13, 2012
at Minneapolis, Minnesota

s/John R. Tunheim
JOHN R. TUNHEIM
United States District Judge